

REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars:

In the specification

The specification has been amended to provide literal antecedent basis for an amendment to the claims wherein a step of “pressing the foam together” is stated as “compressing the foam” to avoid confusion with the recited step of “bending two opposite ends of the strip towards each other.”

Applicant notes that the term “compress” is defined in the *Merriam Webster Online Dictionary* (<http://www.merriam-webster.com>), as the following:

- 1: to press or squeeze together
- 2: to reduce in size or volume as if by squeezing.

Thus, it is respectfully submitted that the term “compressed” is consistent with the method step of “pressing the foam together” described in the second and third paragraphs of page 6, and therefore no new matter has been added.

Rejection of claims 1-5 under 35 U.S.C. § 103(a)

Claims 1-5 presently stand rejected as being unpatentable over Poppe (U.S. 4,194,255) in view of Contreras (U.S. 5,797,154) and Giori et al (U.S. 6,684,433). This rejection is respectfully traversed for the following reasons.

As pointed out in response to the previous Office Action, none of the cited references teach or suggest the use of foam wherein “at least a part of the cells present in the foam are broken open.” This is clarified by the present amendment to claim 1, wherein it is clearly stated that “the cells present in the foam are broken open by compressing the foam such that a gas pressure within the cells rises to burst the cells.” Support for this amendment is found in paragraphs 2 and 3 of page 3 of the present application, and therefore this amendment does not constitute new matter.

It can be understood that viscoelastic foam materials are formed with numerous closed cells. The cells are inherent to any foam material, and are created as a result of gas inclusions during the production of the foam. Thus, the cells referred to in claim 1 are to be distinguished from the cavities which are created by providing slits in the foam.

The cells recited in claim 1 are broken open, according to the claimed method, by pressing the foam together, or compressing the foam, such that gas pressure within the cells rises to burst the cells. This is to be distinguished from bending the foam to bring opposite ends of the strip together, which is not likely to break open a sufficient number, if any, of the cells. It should be noted that in the present application (at paragraph 3 of page 6) it is stated that “*after* having pressed together (compressed) the foam 3 *and after* it has reassumed its original shape, the strip 8 is bent [...] whereby the side walls 11-12 are fixed together [...]” Thus, the step of pressing together, or compressing, the foam is clearly different from the step of bending the foam into a tubular form.

The examiner states that “one skilled in the art would have readily recognized that during [the] bending step, the slits are opened causing the cells of the foam to be broken open.” However, it is not at all clear that bending the cells of the foam would *cause cells of the foam* to break open, although the cavities formed by the slits will open up due to stretching of the foam. Further, claim 1 is amended to clearly distinguish the step of compressing the foam from the step of bending two opposite ends of the foam together. It is clear that the cells of the foam that are broken open by compressing the foam, according to amended claim 1, are different from the cavities formed by the slits.

It is respectfully submitted that, while some cells of the foam will certainly be cut by the act of cutting slits into the foam layer, the result of cutting the slits is some cut or broken cells confined along the walls of the slits. In contrast, claim 1 requires a method step of *compressing the foam*, whereby a number of cells will be burst open *throughout* the foam, thereby achieving a distribution of broken cells that is not possible by the act of cutting the slits. Similarly, while it is not at all clear that bending the foam will cause any of the cells to break, there is no suggestion by any of the cited references that such bending will cause the same uniform distribution of *broken cells throughout the foam* as is caused by the claimed method step of compressing the foam.

It is respectfully submitted that Poppe says nothing about broken open cells, and Poppe does not teach or suggest *compressing the foam such that a gas pressure within the cells rises to burst the cells*. Furthermore, neither Contreras nor Giori teach or suggest any broken open cells. Thus, it is respectfully submitted that Poppe, Contreras, and Giori together fail to teach or suggest all the limitations of claim 1 of the present application. For at least these reasons, Poppe, Contreras, and Giori together fail to establish a prima case of obviousness of claim 1, and therefore claim 1, and the dependent claims 3-5, are allowable over the cited references, and withdrawal of the rejection is respectfully requested.

Conclusion

Every effort has been made to place the application fully in condition for allowance, and to remove all issues raised by the Examiner in the Official Action.


In view of the amendments to the claims, and in further view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is requested that claims 1 and 3-5 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicant's attorney, the Examiner is invited to contact the undersigned at the numbers shown.

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Respectfully submitted,


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